IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7201 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

CTM TEXTILE MILLS (C. MOHANLAL PVT. LTD.)

Versus

UNION OF INDIA

Appearance:
MR AMAR P DAVE for Petitioner No. 1-2
MR DN PATEL for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 2-3

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 30/09/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

1 Rule. Service of Rule is waived by Mr.D.N.Patel,

learned Senior Central Government Standing Counsel for the respondents. At the request of the learned Advocates appearing for the respective parties the matter is taken up for final hearing today.

2 The grievance which the petitioner has ventilated in this petition is with regard to non payment of a sum of Rs.10,23,635/- by way of refund.

3 It has been submitted by Mr.Dave, learned Advocate for the petitioners that the petitioners have to recover a sum of Rs.10,23,635/- by way of refund from the respondent authorities. For the purpose of claiming the said refund, an application dated 29.01.2002 was submitted by the petitioners but till today the petitioners have neither heard anything from the respondent authorities nor they have received the said amount of refund. As nothing was heard by the petitioners after the application dated 29.01.2002 was submitted, the petitioners submitted another application on 13.06.2002 but no action has been taken by the respondents in pursuance of the second application also. The petitioners therefore, filed a third application on 4.9.2002 but no action has been taken even on that application. In the circumstances, the petitioners have been constrained to approach this Court with a prayer that the respondent authorities be directed to make payment of the said amount of refund along with interest thereon.

4 In pursuance of the notice issued by this Court Mr.D.N.Patel, learned Senior Central Government Standing Counsel has appeared on behalf of the respondents and has filed an affidavit-in-reply of respondent No.3.

5 The case of the respondent authorities is that the application dated 29.1.2002 submitted by the petitioners for refund was incomplete as certain relevant details required to be stated in the application had not been stated. In the circumstances the said application was returned to the petitioners and the petitioners were asked to furnish certain information and resubmit the application. According to the respondents, in pursuance of the letter written by the respondent authorities, no response has been given by the petitioners and therefore the amount of refund has not been paid.

6 On the other hand it has been submitted by the petitioners that no communication has ever been received by them from the respondents after application dated

29.01.2002 was submitted to the respondent authorities.

7 We had called upon the learned Advocate appearing for the respondents to adduce any evidence to show whether any communication was sent by the respondent authorities to the petitioners calling for further details and whether the said communication was received by the petitioners. Unfortunately, the respondent authorities could not adduce any evidence to show that the communication sent by the respondent authorities had been received by the petitioners.

8 It is not in dispute that a sum of Rs.10,23,635/is to be paid to the petitioners by way of refund by the respondents. The only question is as to why the delay is being caused. Be that as it may, the fact remains that the said amount has to be paid to the petitioners and, therefore, it is directed that the another application, which has been given by the petitioners on 13.6.2002, should be processed by the respondents as expeditiously as possible. We hope that the said application shall be processed and the amount of refund shall be paid to the petitioners as soon as possible.

9 Mr.Dave, learned Advocate appearing for the petitioners has very clearly submitted that if the papers pertaining to first refund application dated 29.01.2002 have still not been processed, the petitioners shall not claim interest with effect from 29.1.2002 but at least with effect from 13.06.2002, the date on which the second application was submitted to the respondent authorities, interest must be paid to the petitioners.

10 In the circumstances, it is directed that the second application for refund submitted by the petitioners on 13.6.2002 shall be processed as expeditiously as possible and the petitioners shall be paid the refund and interest thereon as per relevant rules and regulations with effect from 13.6.2002 preferably within a period of one month from the date of receipt of a writ or certified copy of this order by the concerned respondent.

11 In view of the above direction the petition stands disposed of as allowed. Rule is made absolute. There shall be no order as to costs.

Sd/- Sd/-

(A.R.Dave, J) (D.A.Mehta, J)

m.m.bhatt